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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,004	06/20/2003	Marvin Yakos	1031005	1003
24253	7590	11/30/2004		
JOEL I ROSENBLATT 445 11TH AVENUE INDIALANTIC, FL 32903				
EXAMINER ALPERT, JAMES M				
ART UNIT		PAPER NUMBER		
3624				

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/604,004

Applicant(s)

YAKOS, MARVIN

Examiner

James Alpert

Art Unit

3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

The application has been reviewed, and Claims 1-20 are pending. The objections and rejections are as stated below.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 12-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to a non-statutory subject matter. Specifically the method claims as presented do not claim a technological basis in the pre-amble and the body of the claim. Without a claimed basis, the claim may be interpreted in an alternative as involving no more than a manipulation of an abstract idea and therefore non-statutory under 35 U.S.C. 101. In contrast, a method claim that includes in the body of the claim structural / functional interrelationship which can only be computer implemented is considered to have a technological basis [See Ex parte Bowman, 61 USPQ2d 1669, 1671 (Bd. Pat. App. & Inter. 2001) - used only for content and reasoning since not precedential].

In order to over come the 101 rejections above, the following preamble is suggested: "A computer implemented method for ..." , or something similar. Also, in the body of the claim include structural/functional interrelationships that can only be computer implemented. Computer implementation is only type of technological basis, and there are other possibilities. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by McNee, United States Patent Application Publication #20030065572.

With regard to Claims 1, 12, McNee teaches a system and method comprising:

identifying system participants and means for identifying one or more customers or for identifying one or more organizations with a cause; (Para. 32 Claim 1(c))

identifying one or more customers or one or more organizations with a cause and producing and recording transaction data related to said one or more customers or said one or more organizations with a cause; and (Para. 32 Claim 1(b) and 1(e))

receiving said transaction data indicative of transactions related to said one or more customers or said one or more organization with a cause, for producing credit data indicative of a part of said transactions to be credited to a respective system participant. (Para. 32 Claim 1(d).)

With regard to Claims 2, 13, McNee teaches a system and method comprising:

said step of producing credit data, producing separate respective credit data for separate respective system participants or said credit data with separate respective credit allowances. (Para. 32 Claims 3)

With regard to Claims 3, 14, McNee teaches a system and method comprising:

said step of identifying system participants includes the step of identifying an account manager (Figure #1 Item 18)

said step of producing credit data includes the step of producing credit data indicative of at least a part of said transactions to be credited to said account manager.
(Para. 24 lines 1-8)

With regard to Claims 4, 15, McNee teaches a system and method comprising:

said step of producing separate respective credit data for separate respective system participants includes the step of producing said separate respective credit data directly from said transaction data or indirectly in response to said credit data.
(Para. 31 lines 1-23)

With regard to Claims 5, 16, McNee teaches a system and method comprising:

said step of producing credit data, producing separate respective credit data for separate respective system participants or said credit data with separate respective credit allowances, includes the step of producing separate respective credit data for separate respective transactions. (Para. 32 Claim 1(f))

With regard to Claims 6, 17, McNee teaches a system and method comprising:

said step of producing credit data, producing separate respective credit data for separate respective system participants or said credit data with separate respective credit allowances, includes the step of producing said credit data for vendors with a preferred presence with one or more system participants or for vendors with an associated presence with one or more system participants. (Para. 29 lines 9-12)

With regard to Claims 7, 18, McNee teaches a system and method comprising:

the step of identifying said transactions with system participants acting in said transactions and system participants reacting to said transactions.
(Para. 23 lines 1-9, Para. 24 lines 1-8)

With regard to Claims 8, 19, McNee teaches a system and method comprising:

at least some of said system participants reacting to said transactions receive credit data derived from credit data credited to said system participants acting in said transactions. (Para. 23 lines 1-9, Para. 24 lines 1-8)

With regard to Claims 9, McNee teaches a data-processing system comprising:

a central data processing site connected to a communications system;
(Figure 1 item #10)

a customer data processing site connected to said communications system;
(Para. 22 lines 1-5)

a plurality of organizations with a cause sites connected to said communications system; (Figure 1 item #16)

said customer data processing site producing data indicative of a transaction for a designated respective organization with a cause, in response to a customer's purchase order or donation order, entered through said customer data processing site;
(Para. 22 lines 5-9)

said central data processing site, responsive to said data indicative of transaction, producing organization with a cause credit data indicative of at least a part of or percentage of the amount of said transaction credited to said designated respective organization with a cause site; and (Para. 24 lines 1-3)

said central data processing site producing a record of said organization with a cause credit data. (Para. 32, Claims 2 and 3)

With regard to Claim 10, McNee teaches a data-processing system comprising:

an account manager site; and (Figure 1 item #10)

said central data processing site responsive to said data indicative of a transaction, producing account manager credit data indicative of at least a part of or percentage of the amount of said transaction credited to said account manager site; and
(Para. 24 lines 1-3)

said central data processing site producing a record of said account manager credit data; (Para. 32, Claims 2 and 3)

With regard to Claim 11, McNee teaches a data-processing system comprising:

a preferred vendor site connected to said communication system;
(Figure 1 item #24)

a associated vendor site, connected to said communication system;
(Figure 1 item 14)

~~said preferred vendor site related to said central-processing site or to said plurality of organizations with a cause sites, by a primary communication link and said associated vendor site related to said central processing site or to said plurality of organizations with a cause sites, by a secondary communications link; and~~
(Para. 22 lines 1-33)

said central data processing site, responsive to said data indicative of transaction, producing preferred vendor or associated vendor credit data related to said primary and secondary communications links. (Para. 26 lines -18)

With regard to Claim 20, McNee teaches a system and method comprising:

identifying a primary vendor and an associate vendor, related to said transaction data, producing preferred vendor or associated vendor credit data related to said primary and secondary identification. (Para. 20 lines 1-17)

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

a) Ogilve, U.S. Patent #631358, Oct. 7, 2003, Promoting Savings by Facilitating Incremental Commitments Made with Credit Card and Other Consumer-Initiated Transactions.

b) Bezos, U.S. Patent #6029141, Feb. 22, 2000, Internet-Based Customer Referral Services.


c) Baker et al., U.S. Patent Application Publication #2040093302, May 13, 2004, System and Method for Providing Logistics for a Sale or Transfer of Goods with Proceeds Provided to a Third Party.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Alpert whose telephone number is (703) 305-

4001. The examiner can normally be reached on M-F 9:00-5:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (703) 308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James M. Alpert
November 17, 2004



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